



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

May 13, 1955

Honorable Allan Shivers
Governor of Texas
Capitol Station
Austin, Texas

Opinion No. MS-212
Re: Constitutionality of
Senate Bill 343, 54th
Legislature, regulat-
ing investment of sur-
plus firemen's and
policemen's pension
funds by certain cities.

Dear Governor Shivers:

You have requested an opinion on the constitutionality of Senate Bill 343, 54th Legislature, which amends Section 17 of Article 6243f of Vernon's Civil Statutes by changing the manner of investing funds in the special retirement reserve.

Article 6243f, at the present time, applies only to the City of San Antonio. The policemen's and firemen's system of retirement and disability pension of the City of San Antonio has been operating under Article 6243f. Davis v. Peters, 224 S.W.2d 490 (Tex.Civ.App.1949); Jud v. City of San Antonio, 263 S.W.2d 789 (Tex.Civ.App.1953, error ref.).

Article 6243f was enacted pursuant to Section 51-f of Article III of the Constitution of Texas. In City of Fort Worth v. Howerton, 149 Tex. 614, 236 S.W.2d 615 (1951), the court said:

"Section 51-f authorizes the Legislature to provide a pension system for certain officers and employees of cities and towns to operate statewide or by districts, under such plans as the Legislature shall direct, but that participation therein by cities and towns shall be voluntary." (Emphasis ours.)

Since the Legislature is authorized to provide a pension system to operate statewide or by districts, it is our opinion that Section 56 of Article III of the Constitution of Texas prohibiting the enactment of local or special laws regulating the affairs of cities, does not apply to the provisions of Article 6243f and Senate Bill 343 of the 54th Legislature is constitutional.

Hon. Allan Shivers, page 2 (MS-212)

This opinion is based on the assumption that the City of San Antonio has not adopted the provisions of Section 51-e of Article III of the Constitution of Texas. See City of Fort Worth v. Howerton, supra, wherein the court stated that if the system is established under Section 51-e of Article III of the Constitution of Texas, such system would be controlled thereby and would not be controlled by the acts of the Legislature.

APPROVED:

J. C. Davis, Jr.
County Affairs Division

L. P. Lollar
Reviewer

J. A. Amis, Jr.
Reviewer

Robert S. Trotti
First Assistant

JR:zt:lm

Yours very truly,

JOHN BEN SHEPPERD
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By 
John Reeves
Assistant